

Remarks

Claims 1-47 were present in the application as filed, with claims 44-47 cancelled by preliminary amendment. In response to a restriction dated February 15, 2007, Applicants elected the claims of Group I (claims 1-10, and 34-36) and SEQ ID NO. 1 as a representative species of haptotactic peptide. The election was made without traverse and with the understanding that the withdrawn process claims would be rejoined if the elected claims were found allowable, and the withdrawn claims were amended to include all the limitations of the product claims.

In response to a first Office Action dated September 21, 2007, claims 2-6, 15-19, 26-30 and 42 were cancelled and new claims 48-51 were added. Claims 1, 7-14, 20-25, 31-41, 43 and 48-51 are currently pending in the application with claims 11-14, 20-25, 31-33, 37-41, 43 and 50-51 withdrawn from consideration as being drawn to a non-elected invention.

Claim Objections

According to the Office Action, the claims were not commensurate in scope with the elected invention. To expedite prosecution and without acceding to the correctness of the objection, claim 1 is amended above to focus the claim on a haptotactic peptide consisting of the amino acid sequence of SEQ ID NO.: 1.

Double Patenting

The rejection of claims for double patenting was maintained. The Examiner states that Applicants' argument filed February 21, 2008 in response to the previous Office Action was noted, however, the arguments are deemed moot until the claims are amended commensurate in scope with the elected invention. In view of the above amendments and following arguments, however, Applicant respectfully submits that the claims, as currently amended are not obvious over the cited references.

U.S. Patent No. 7,122,620

The Examiner rejects claims 1, 7-10 and 34-36 stating that, although the conflicting claims are not identical, they are not patentably distinct from claims 1-4 of U.S. Patent No. 7,122,620 (hereinafter "the '620 Patent") directed to a peptide or any type of composition comprising a peptide identical to that of SEQ ID NO:1 of the instant Application. The Examiner further states that compositions comprising liposomes need no reference for an introduction, as the use of liposomes to carry e.g. other active agents, in combination with peptides is well known in the art.

Applicants respectfully traverse. Indeed it is known that liposomes can be used to carry other active ingredients. However, it is completely irrelevant to the haptotactic peptide-liposomal composition of the present invention. The present invention now shows that, surprisingly, the presence of haptotactic-peptides, particularly the peptide consisting of SEQ ID NO:1 modifies the liposomes activity to significantly enhance the composition uptake by different cell types. As described in the instant specification (Example 4, paragraphs [0152]-[0154]), the uptake of either the free haptotactic peptide or the free liposomes into cells was significantly lower compared to the uptake of the haptide-liposomal composition of the invention. As further described in the instant specification, the haptotactic peptide-liposomal composition of the present invention form a unique structure, wherein the typical aggregated appearance of the haptotactic peptide disappear when the composition is formed (Example 3 of the instant specification).

Thus, Applicants respectfully submit that the haptotactic peptide-liposomal compositions of the present invention are unique in their structure and function and therefore possess unexpected properties. Accordingly, the haptotactic peptide-liposomal compositions of the present invention should not be considered obvious in view of, nor encompassed by, the disclosure of the '620 Patent. Reconsideration and withdrawal of the rejection is requested.

U.S. Patent Publication No. 20070009571

The provisional rejection of claims 1, 7-10 and 34-36 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 11-20 of co-pending U.S. Application Publication No. 20070009571 (hereinafter the '571 Publication) is also maintained. According to the Examiner, although the conflicting claims are not identical, they are not patentably distinct from each other because claims 11-20 of the '571 Publication are directed to compositions/products comprising a peptide identical to that of SEQ ID NO:1 of the instant Application. The Examiner further states that compositions comprising liposomes need no reference for an introduction, as the use of liposome to carry e.g. other active agents, in combination with peptides has well been known in the art, and that the claims are therefore obvious absent evidence to the contrary (i.e., that these specific liposome carry some other unexpected property not routinely used within the peptide composition arts).

Applicants respectfully traverse. Claims 11-14 of the '571 publication recite a composition comprising haptotactic peptide that is attached to a surface. In contrast, the haptotactic peptide-liposomal composition of the instant invention is formed when the haptides are dissolved within the lipid bilayer of the liposome (See, e.g., paragraph [0150] of the published application).

Similarly, claims 18-20 of the '571 Publication recite a cell structure wherein the haptotactic peptide is bound to a cell and attached to the structure such that the cell is supported by the structure. By contrast, in the haptide-liposomal composition of the present invention the haptides are dissolved in the liposome bilayer, and the composition may be internalized by a cell.

Finally, claims 15-17 of the '571 Publication recite a polymer composition, comprising a plurality of subunits and plurality of linker moieties for attaching each of the plurality of subunits, wherein the subunits are haptotactic peptide. Applicants respectfully submit that nowhere in the present Application is such polymer disclosed or claimed.

Accordingly, Applicants contend that claims 1, 7-10 and 34-36 are not obvious in view of claims 11-20 of the '571 publication. Reconsideration and withdrawal of the rejection is requested.

U.S. Patent Publication No. 20070066535

The Examiner further repeats the provisional rejection of claims 1, 7-10 and 34-36 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-2 of co-pending U.S. Application Publication No. 20070066535 (hereinafter the '535 Publication). According to the Examiner, although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1-2 of the '535 Publication are drawn to a peptide/products comprising a peptide having at least 50-70% identity to the carboxy termini of fibrinogen. SEQ ID NO:14 of the '535 Publication, which is identical to SEQ ID NO:1 of the instant Application meets the limitation of claims 1-2. The Examiner further states that compositions comprising liposomes need no reference for an introduction, as the use of liposome to carry e.g. other active agents, in combination with peptides has well been known in the art, and that the claims are therefore obvious absent evidence to the contrary (i.e., that these specific liposome carry some other unexpected property not routinely used within the peptide composition arts).

Applicants respectfully submit that claims 1-2 of the '535 Application recite an isolated haptotactic peptide and not a haptotactic-peptide-liposomal composition as recited by the instant claims. Furthermore, although SEQ ID NO:14 of the '535 Publication is identical to that of SEQ ID NO:1 of the instant Application, SEQ ID NO:14 is not claimed in the '535 Publication. In fact, in a paper filed December 19, 2007 (date stamped December 26, 2007 by the Office) responding to a restriction requirement issued in the application corresponding to the '535 Publication, SEQ ID NO: 5 was elected (with traverse), and examination is pursued regarding this elected sequence only. Therefore, Applicants believe the rejection is moot and request reconsideration and withdrawal of the rejection.

In view of the forgoing amendments and arguments, the claims are believed in condition for allowance and such action is respectfully requested. Additionally rejoinder of the method claims is requested. The Examiner is invited to contact Applicants' undersigned representative with any questions that arise in connection with the present application.

Respectfully submitted,

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A handwritten signature in cursive script, reading "Kathy Smith Dias".

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